



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/745,260

12/20/2000

Peter Phaal

21906-702

8339

7590

08/21/2006

David G. Beck
Bingham McCutchen LLP
3 Embarcadero Center
Suite 1800
San Francisco, CA 94111

EXAMINER

TSEGAYE, SABA

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

87

Office Action Summary	Application No.	Applicant(s)	
	09/745,260	PHAAL, PETER	
	Examiner	Art Unit	
	Saba Tsegaye	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-26 and 28-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 and 7-13 is/are allowed.
- 6) ☒ Claim(s) 14, 15, 17-20, 22, 26, 28-31, 33-36 and 42-45 is/are rejected.
- 7) ☒ Claim(s) 16, 21, 23-25, 32 and 37-41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office Action is in response to the amendment filed 06/09/06. Claims 1-5, 7-26 and 28-45 are pending. Claims 1-5 and 7-13 are allowed. Claims 21, 23-25 and 37-41 are objected and claims 14-20, 22, 26-36 and 42-45 are rejected..

Claim Objections

2. Claim 27 is objected to because of the following informalities: the amendment filed 11/14/05 stated that “claim 27 has been cancelled”, however, the amendment filed 06/09/06 shows that claim 27 is still pending. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. Claims 14, 15, 17-20, 22, 26, 28-31, 33-36 and 42-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Mathur (US 6,308,220 B1).

Regarding claims 14 and 28, Mathur discloses a method to monitor a network switch, comprising:

externally obtaining (30) at least a portion of data packets received at the network switch (22),

wherein each of the data packets comprises network address information (MAC address);
extracting the network address information from the obtained portion of data packets
(when a new incoming packet to an input port of network switch is detected, the packet's

Art Unit: 2616

destination address captured by the MAC is loaded into port register 26 on search chip 30; see fig. 2); and

determining port information of the network address information in response to the network address information extraction (entries from routing table 20 are read and sent to comparator 24); and

performing network analysis of said network switch (compares the MAC address from port register 26 to the MAC address in the selected entry from routing table 20. Once a matching MAC address is detected by comparator 24, the port number from that match entry is sent to network switch 22).

Regarding 15, Mathur discloses the method wherein port information comprises physical information (the port number corresponds to the physical port that the network switch is attached to; ingress ports , egress ports)

Regarding claims 17, 18, 33 and 34, Mathur discloses that said network address information comprises source address and the destination address (column 7, lines 40-43).

Regarding claims 19 and 35, Mathur discloses the method wherein the network switch comprises a plurality of regular ports, wherein said portion of data packets are obtained by passively tapping at least one of the regular ports (column 4, line 65-column 5, line 7).

Art Unit: 2616

Regarding claims 20 and 36, Mathur discloses that said determining step comprising: interrogating said switch to obtain said port information using said network address information (the match signal causes network switch to make a connection from the input port to the output port identified by the port number from the matching entry).

Regarding claims 22 and 31, Mathur disclose the method wherein the network address information extraction and the port information determination are performed in an external monitor device (see fig. 2, chip 30).

Regarding claims 26 and 42, Mathur discloses the method further comprising maintaining at least one lookup table correlating the network address information with the port information (see fig. 2, 20).

Regarding claim 29-30, Mathur discloses that said port information refers to physical information of said network address information in said network switch (MAC address and port number; column 5, lines 8-10).

Regarding claim 43, Mathur discloses that said network switch is a routing switch (the switch routs packets over a switches network (see figure 2).

Regarding claim 44, Mathur discloses the method further comprising associating the port information with information contained in the data packets (column 4, line 65-column 5, line 7).

Regarding claim 45, Mathur discloses the method, further comprising performing network analysis of said network switch using said port information and associated data packet information (column 4, line 65-column 5, line 7).

Allowable Subject Matter

4. Claims 16, 21, 23-25, 32, and 37-41 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 1-5 and 7-13 are allowed.

Response to Arguments

6. Applicant's arguments with respect to claims 1-5, 7-26 and 28-45 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

Art Unit: 2616

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saba Tsegaye whose telephone number is (571) 272-3091. The examiner can normally be reached on Monday-Friday (7:30-5:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on (571) 272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ST
August 15, 2006


DORIS H. TO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600